



DEPARTMENT OF ENVIRONMENTAL PROTECTION
Monthly Enforcement Report
for actions during May 2010
DISTRIBUTED: June 29, 2010

This report has been prepared to satisfy a statutory obligation the Maine Department of Environmental Protection has to inform the public of certain enforcement resolutions. Please contact Jim Dusch at (207) 287-8662 or jim.e.dusch@maine.gov for additional information regarding the activities listed in this report. The full text of most Administrative Consent Agreements is available on the Board of Environmental Protection's website at <http://www.maine.gov/dep/bep/agenda.htm>.

The following cases were resolved to achieve compliance with the law; remediate environmental damage; restore natural resources to appropriate conditions; and impose penalties to deter similar actions in the future.

Administrative Consent Agreements Approved by the Board of Environmental Protection and Office of the Attorney General (party followed by location):

Air:

Pike Industries, Inc., Westbrook, Maine. Pike Industries, Inc. ("Pike Industries") violated its air emission license for an asphalt batch plant by exceeding the combined fuel oil limit set forth in the license. Pike Industries exceeded the facility's combined fuel oil license limit of 400,000 gallons per year on a twelve month rolling total in 2006, 2007, and 2008. To resolve the violations, Pike Industries agreed to a civil monetary penalty of \$7,500. Of the \$7,500 civil penalty, \$4,912 was offset by a Supplemental Environmental Project which will provide owners and operators of mining operations with training on environmental laws and regulations related to non metallic mining.

Hazardous Waste:

Advanced Power Technologies, LLC, Westbrook, Maine. Advanced Power Technologies, LLC ("APT") violated provisions of the Department's rule concerning *Identification of Hazardous Wastes* by: failing to mark containers of universal waste lamps with the type of universal waste or the words "Waste Lamps"; failing to mark containers with the date that universal waste was received at the facility; failing to timely file a Subsequent Notification form to update the site's U.S. EPA identification number for regulated hazardous waste activity to reflect APT's acquisition of the site from a prior owner; failing to maintain complete employee training records for employees who handle or have responsibility for managing universal waste; failing to store universal waste containers and boxes with adequate aisle space to be able to inspect the containers; failing to use a manifest or Maine Recyclable Material Uniform Bill of Lading ("UBOL") to document the shipment of universal waste; and failing to submit to the Department quarterly universal waste reports for wastes transported and received using a log in lieu of a manifest or UBOL. Following Department involvement, APT submitted a written response to the Department indicating corrective actions undertaken, provided quarterly reports for 2009, and provided universal waste personnel training records. To resolve the violations, APT paid \$4,500 as a civil monetary penalty.

Land:

Gordon Lumbering, LLC, Industry, Maine. Gordon Lumbering, LLC ("Gordon Lumbering") violated provisions of Maine's *Natural Resources Protection Act* by disturbing soil adjacent to a river, stream or brook and placing fill in a river, stream or brook without first obtaining a permit from the Department, Maine's *Erosion and Sedimentation Control* law by conducting or causing to be conducted an activity that involves filling, displacing or exposing soil or other earthen materials without taking measures to prevent unreasonable erosion of soil or sediment beyond the project site or into a protected natural resource, and Maine's *Protection and Improvement of Waters* law by discharging soil to waters of the state without first obtaining a permit from the Department. Specifically, an inspection by Maine Forest Service staff of the subject property revealed that while conducting a timber harvest the approach to a stream crossing over an unnamed stream on the property was not properly stabilized and the use of heavy equipment caused sediment to enter the stream. At the time of the inspection, erosion controls were being



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installed. A subsequent inspection by Maine Department of Environmental Protection ("DEP") staff revealed that a temporary bridge had been installed on the stream and equipment crossing the temporary bridge caused sediment to be pushed from the approach to the bridge deck and then into the stream. At the time of the inspection, the approaches to the crossing, the sediment on the temporary bridge, and all surrounding exposed soil had been covered with temporary mulch. A follow-up inspection by DEP staff revealed that the temporary bridge had been removed and the surrounding area had been permanently stabilized with vegetation. Restoration has been completed to the satisfaction of Department staff. To resolve the violations, Gordon Lumbering will pay \$5,836 as a civil monetary penalty.

Last Resort Holdings, LLC, Cushing, Maine. Last Resort Holdings, LLC ("Last Resort") violated Maine's *Site Location of Development* law and a Department licensing order issued thereunder by failing to follow plans submitted in support of, and approved in, the Department licensing order to install an access road. Specifically, fly rock from blasting was not contained with blasting mats or other protective devices in accordance with the plans submitted with the application which resulted in fly rock being discharged into wooded buffers adjacent to a coastal wetland and some entered the coastal wetland. At the time of a Department inspection, no erosion control devices were installed along the road contrary to the erosion control plan submitted in support of, and approved in, the Department licensing order. Following Department involvement, Last Resort submitted a restoration plan to the Department to clean up the fly rock from the coastal wetland and adjacent wooded areas. The restoration plan was approved by Department staff and all restoration has been completed in accordance with the plan. To resolve the violations, Last Resort paid \$5,670 as a civil monetary penalty.

George Richardson III, Westport Island, Maine. George Richardson III ("Richardson") violated Maine's *Natural Resources Protection Act* by placing fill in a coastal wetland without first obtaining a permit from the Department, placing fill and removing vegetation adjacent to a coastal wetland without first obtaining a permit from the Department, and filing a permit by rule notification and then not following permit by rule standards. In addition, Richardson violated Maine's *Erosion and Sedimentation Control* law by conducting or causing to be conducted an activity that involves filling, displacing or exposing soil or other earthen materials without taking measures to prevent unreasonable erosion of soil or sediment beyond the project site or into a protected natural resource. Specifically, Richardson filed a permit by rule notification with the Department to conduct activities adjacent to a protected natural resource and for a shoreland stabilization project including removal of rock within seventy-five feet of a coastal wetland for the placement of a foundation for a conforming structure and installation of riprap. Department inspections revealed that Richardson had constructed a boat launch on the property resulting in fill being placed within twenty-five feet of the coastal wetland, fill being placed in the coastal wetland, and placement of fill within seventy-five feet of the coastal wetland which was not associated with the placement of the building foundation. In addition, Richardson had built a nearly vertical wall at the shoreline which extended into the coastal wetland and rock had been placed beyond the base of the existing banks and into the coastal wetland. In conducting these activities, Richardson failed to follow the Department's *Permit by Rule* standards including the placement of fill not required to maintain the integrity of a structure, installing rip rap where erosion did not exist, installing riprap at a slope steeper than one horizontal to one vertical, installing riprap that was not anchored at the base of the existing slope, and failing to reestablish vegetation following completion of the stabilization project. Following Department involvement, the area was stabilized with vegetation and a restoration plan was submitted to the Department. The restoration plan was approved by Department staff. To resolve the violations, Richardson agreed to implement the restoration plan, and paid \$2,931 as a civil monetary penalty.